

**IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF ALABAMA
SOUTHERN DIVISION**

IN RE:)	
RUBY STREETER,)	
)	
PLAINTIFF,)	
)	
vs.)	CASE NUMBER: 1:07-cv-97-WKW
)	
OFFICE OF DOUGLAS R. BURGESS, LLC.,)	
DOUGLAS R. BURGESS, ESQ. individually;)	
DOUGLAS J.MACKINNON, individually and)	
d/b/a Burgess Law Office; MARK BOHN,)	
individually and d/b/a Burgess Law Office;)	
ROBERT VAN DE MARK, individually and)	
d/b/a Burgess Law Office; HARVEY DENNIS,)	
individually and d/b/a Burgess Law Office;)	
ALL DEBT TRADERS, INC. in its Corporate)	
capacity and d/b/a Burgess Law Office;)	
FIRST AMERICAN INVESTMENT, LLC, in its)	
corporate capacity and d/b/a Burgess Law)	
Office; ACCOUNT MANAGEMENT SERVICES)	
OF NORTH AMERICA, LLC, in its corporate)	
capacity and d/b/a Burgess Law Office;)	
PORTFOLIO PARTNERS OF AMHERST, LLC,)	
in its corporate capacity and d/b/a Burgess)	
Law Office; GMK, INC., in its corporate)	
capacity and d/b/a Burgess Law Office;)	
COLLINS LAW OFFICES, LLC, in its corporate)	
capacity and d/b/a Burgess Law Office.)	
)	
DEFENDANTS.)	

MOTION TO COMPEL DEPOSITION TESTIMONY OF DOUGLAS R. BURGESS

COMES NOW, the Plaintiff Ruby Streeter, by and through the undersigned attorney, pursuant to Rule 37, Federal Rule of Civil Procedure, and moves this Honorable Court to compel the Defendant, Douglas R. Burgess to appear for deposition in the Middle District of Alabama. As grounds for the Motion, the Plaintiff states as follows:

1. On February 1, 2007 the Plaintiff filed the above-styled suit.
2. On June 16, 2007 this Honorable Court entered a Order Setting Trial Date and Scheduling

Order. The first discovery cutoff was set for November 23, 2007.

3. During the first discovery period, counsel for the Parties agreed that the Plaintiff's attorney would travel to Buffalo, New York to depose Douglas R. Burgess. The deposition was scheduled for October 12, 2007.

4. On October 10, 2007, after the close of business, the Defendant unilaterally cancelled the deposition of Douglas R. Burgess. Defendant's counsel informed Plaintiff's counsel of the cancellation by facsimile. A copy of this facsimile is attached as Exhibit "1". Plaintiff's counsel learned of the cancellation while en route to catch a flight to New York.

5. Plaintiff's attorney has previously attempted to travel to New York to depose Defendant, Douglas R. Burgess. The Defendant's unilateral cancellation of that deposition greatly prejudiced the Plaintiff.

6. Plaintiff's attorney incurred travel expenses and lost time in his attempt to depose Defendant Douglas R. Burgess of which Defendant summarily cancelled.

7. Defendant Douglas R. Burgess' is now on his fourth lawfirm. The termination of counsel appears to be Defendant's standard operating procedure for delaying prosecution of this litigation.

8. In addition to Defendant Burgess, there are other named Defendant's whom Plaintiff believes are acting in concert and conspiracy with Douglas R. Burgess to carry on illegal acts. One of those Defendant's to wit: Defendant Douglas MacKinnon, has filed a Motion to Dismiss based on Lack of Personal Jurisdiction.

9. The deposition testimony of Defendant Douglas R. Burgess is necessary, not only to assist the Plaintiff in prosecution of her case against Defendant Douglas R. Burgess, but also to assist this Honorable Court in determining personal jurisdiction over other named Defendants in this case.

10. Based on Defendant Burgess' actions to this point, further attempts to obtain a deposition date in New York would be a futile act.

11. Plaintiff's counsel believes an order from this Honorable Court commanding Defendant Douglas R. Burgess's appearance for deposition in Enterprise, Alabama will resolve this matter.

WHEREFORE, the Plaintiff moves this Honorable Court to compel the Defendant, Douglas R. Burgess to appear in the Middle District of Alabama to be deposed by Plaintiff's counsel and for all other relief that is just.

RESPECTFULLY SUBMITTED this 2nd day of June, 2008.

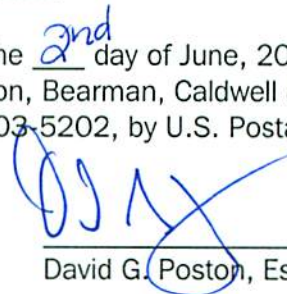
BROCK & STOUT



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CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I have this the 2nd day of June, 2008, served a copy of the foregoing upon Fern H. Singer, Esq., Baker, Donelson, Bearman, Caldwell & Berkowitz, P.C., 720 North 20th Street, Suite 1600, Birmingham, AL 35203-5202, by U.S. Postal Service, postage prepaid, or by electronic mail.



David G. Poston, Esq.

EXHIBIT 1



Halcomb & Wertheim

A PROFESSIONAL CORPORATION

Direct dial 205-251-0046
mac@hw-el.com

October 10, 2007

Gary W. Stout
BROCK & STOUT, LLC
P O Box 311167
Enterprise, AL 36331-1167

Sent via facsimile 334-393-0026, e-mail and regular mail

RE: Ruby Streeter v Office of Douglas R. Burgess, LLC

Dear Gary:

Please cancel your travel plans to New York. We are in the process of putting together our second Offer of Judgment. The offer will abrogate the need for you to depose Mr. Burgess on October 12, 2007. I am sending this letter to you pursuant to Rule 26(c) of the Federal Rules of Civil Procedure and will file a Motion for Protective Order if necessary.

I look forward to hearing from you.

Sincerely yours,



W. McCollum Halcomb
FOR THE FIRM